

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

EIGHTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Friday, January 18, 2013

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Sunshine Minzlaff, followed by the Pledge of Allegiance led by Senate page Christian Witt.

Roll Call: All members present except Sen. Johnston who was excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the seventh day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Taxation respectfully reports that it has had under consideration SB 58 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Taxation respectfully reports that it has had under consideration SB 55 and returns the same with the recommendation that said bill be amended as follows:

55fa

On page 2 of the printed bill, delete lines 10 to 24, inclusive.

Delete pages 3 to 7, inclusive

55fta

On page 1, line 2, of the printed bill, delete everything after "tax" and insert "."

On page 1, delete line 3.

And that as so amended said bill do pass.

Respectfully submitted,
Ryan Maher, Chair

Also MR. PRESIDENT:

The Committee on Transportation respectfully reports that it has had under consideration SB 49 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Transportation respectfully reports that it has had under consideration SB 47 which was tabled.

Respectfully submitted,
Mike Vehle, Chair

1 Also MR. PRESIDENT:

2 The Committee on Health and Human Services respectfully reports that it has had under
3 consideration SB 23 and returns the same with the recommendation that said bill be amended
4 as follows:

5 23ja

6 On page 12, line 5, of the printed bill, after "officer" insert ", provided there is clear and
7 convincing evidence of wrongdoing on the part of the practitioner".

8 And that as so amended said bill do pass.

9 Also MR. PRESIDENT:

10 The Committee on Health and Human Services respectfully reports that it has had under
11 consideration SB 69 and returns the same with the recommendation that said bill be amended
12 as follows:

13 69ja

14 On page 3, line 2, of the printed bill, delete "and".

15 On page 3, line 3, delete "entity".

16 On page 7, line 11, delete "or entity".

17 And that as so amended said bill do pass.

18 Also MR. PRESIDENT:

19 The Committee on Health and Human Services respectfully reports that it has had under
20 consideration SB 72 and returns the same with the recommendation that said bill be amended
21 as follows:

22 72fa

23 On the printed bill, delete everything after the enacting clause and insert:

24 "Section 1. The department shall implement an expedited inspection process whereby the
25 owner of a food service establishment, lodging establishment, or campground may request a
26 follow-up inspection to the establishment's most recent routine inspection. If an establishment
27 has received an inspection score of eighty or higher, but less than ninety, on the most recent
28 routine inspection, the establishment may request a follow-up inspection through the expedited
29 inspection process. A request for a follow-up inspection as part of the expedited inspection
30 process shall be received by the department within ten business days of the most recent routine

1 inspection. The department shall conduct the follow-up inspection within sixty days of receipt
2 of the request, unless the establishment requesting the follow-up inspection ceases or
3 temporarily suspends operations prior to the follow-up inspection. No establishment may
4 receive more than one follow-up inspection every two years, as part of the expedited inspection
5 process. The department shall charge a fee of one hundred dollars for each follow-up inspection
6 performed as part of the expedited inspection process."

7 And that as so amended said bill do pass.

8 Also MR. PRESIDENT:

9 The Committee on Health and Human Services respectfully reports that it has had under
10 consideration SB 25 which was tabled.

11 Respectfully submitted,
12 Jean M. Hunhoff, Chair

13 MESSAGE FROM THE HOUSE

14 MR. PRESIDENT:

15 I have the honor to transmit herewith HB 1001, 1006, 1021, 1023, 1026, 1027, 1031, and
16 1053 which have passed the House and your favorable consideration is respectfully requested.

17 Respectfully,
18 Arlene Kvislen, Chief Clerk

19 MOTIONS AND RESOLUTIONS

20 SENATE PAGE RESOLUTION 1 Introduced by: Senators Adelstein; Begalka; Bradford;
21 Brown; Buhl; Ewing; Frerichs; Heineman, Phyllis; Holien; Hunhoff, Jean; Jensen; Johnston;
22 Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup, Al; Olson, Russell;
23 Omdahl; Otten, Ernie; Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen;
24 Van Gerpen; Vehle; Welke; White

25 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Eighty-eighth
26 Legislature of the State of South Dakota to Elizabeth Bitterman, Sarah De Yonge, Tracy
27 Hague, Willo Pretends Eagle, Brandon Schrepel, Anna Stambach, Michaela Stroup,
28 Christian Witt

29 WHEREAS, the above named served loyally as pages for the Senate of the Eighty-eighth
30 Legislative Session; and

1 WHEREAS, the members of the Eighty-eighth Senate express their most sincere
2 appreciation to these young people for their service to the state; and

3 WHEREAS, the members extend to these young people their wishes for every success in
4 life:

5 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Eighty-eighth Legislature
6 of the State of South Dakota, that a personal copy of this resolution be duly certified and
7 furnished to each page on this last day of service.

8 Sen. Rave moved that Senate Page Resolution 1 be adopted.

9 The question being on Sen. Rave's motion that Senate Page Resolution 1 be adopted.

10 Which motion prevailed.

11 Sen. Olson moved that SB 56, 36, 52, and 4 be deferred to Tuesday, January 22, the 9th
12 legislative day.

13 Which motion prevailed.

14 **CONSIDERATION OF REPORTS OF COMMITTEES**

15 Sen. Olson moved that the reports of the Standing Committees on

16 Commerce and Energy on SB 62 as found on page 122 of the Senate Journal; also

17 Commerce and Energy on SB 66 as found on page 122 of the Senate Journal; also

18 Education on SB 3 as found on page 123 of the Senate Journal; also

19 Education on SB 5 as found on page 123 of the Senate Journal be adopted.

20 Which motion prevailed.

21 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

22 SB 95 Introduced by: Senator Maher and Representative Olson (Betty)

23 FOR AN ACT ENTITLED, An Act to revise certain restrictions relating to road hunting.

24 Was read the first time and referred to the Committee on Agriculture and Natural
25 Resources.

SB 96 Introduced by: Senators Johnston, Bradford, Jensen, Sutton, and White and Representatives Munsterman, Conzet, Ecklund, Hunhoff (Bernie), Nelson, Qualm, Schoenfish, Sly, Tulson, Tyler, and Verchio

FOR AN ACT ENTITLED, An Act to exempt certain school districts from the requirement to reorganize due to low enrollment.

Was read the first time and referred to the Committee on Education.

SB 97 Introduced by: Senators Monroe, Begalka, Ewing, Jensen, and Otten (Ernie) and Representatives Hoffman, Ecklund, Greenfield, Haggar (Don), Heinemann (Leslie), Hickey, May, Miller, Nelson, Olson (Betty), Rounds, Russell, and Stalzer

FOR AN ACT ENTITLED, An Act to prohibit the publication of certain information pertaining to firearm possession and ownership.

Was read the first time and referred to the Committee on Judiciary.

SB 98 Introduced by: Senators Monroe, Begalka, and Jensen and Representatives Miller, Greenfield, Haggar (Don), Nelson, Olson (Betty), and Russell

FOR AN ACT ENTITLED, An Act to revise certain statutory immunization exemption requirements.

Was read the first time and referred to the Committee on Health and Human Services.

SB 99 Introduced by: Senators Van Gerpen, Adelstein, Johnston, Kirkeby, Sutton, and Welke and Representatives Sly, Craig, Kaiser, Kopp, Magstadt, Munsterman, Nelson, Olson (Betty), Rozum, and Schoenfish

FOR AN ACT ENTITLED, An Act to revise the term used to refer to the imposition of an additional property tax levy for raising revenue for school districts.

Was read the first time and referred to the Committee on Taxation.

SB 100 Introduced by: Senators Adelstein, Begalka, Bradford, Brown, Jensen, Johnston, Jones, Kirkeby, Lederman, Lucas, Maher, Omdahl, Otten (Ernie), Rampelberg, Rave, Rhoden, Tidemann, Tieszen, Welke, and White and Representatives Rozum, Conzet, Dryden, Feinstein, Haggar (Don), Kopp, May, Nelson, Rounds, Russell, Schaefer, Steele, Tulson, and Tyler

FOR AN ACT ENTITLED, An Act to establish a wine direct shipper permit and to provide for certain direct shipments of wine.

Was read the first time and referred to the Committee on Commerce and Energy.

1 SB 101 Introduced by: Senators Adelstein, Begalka, Kirkeby, Lucas, Rampelberg, and
2 Tidemann and Representatives Hoffman, Kopp, and Schrempp

3 FOR AN ACT ENTITLED, An Act to require reporting of the location of certain mine
4 shafts and tunnels.

5 Was read the first time and referred to the Committee on Agriculture and Natural
6 Resources.

7 SB 102 Introduced by: Senators Adelstein, Begalka, Bradford, Buhl, Maher, and Tieszen
8 and Representatives Nelson, Hoffman, Hunhoff (Bernie), and Schrempp

9 FOR AN ACT ENTITLED, An Act to regulate the submission of certain filings with the
10 Office of the Secretary of State.

11 Was read the first time and referred to the Committee on State Affairs.

12 SB 103 Introduced by: Senators Krebs, Brown, Hunhoff (Jean), and Kirkeby and
13 Representatives Hoffman, Duvall, Haggar (Don), and Miller

14 FOR AN ACT ENTITLED, An Act to remove the required waiting period before cremated
15 remains may be released to be scattered.

16 Was read the first time and referred to the Committee on Health and Human Services.

17 SB 104 Introduced by: Senators Krebs, Hunhoff (Jean), and Kirkeby and Representatives
18 Haggar (Don), Ecklund, and Haggar (Jenna)

19 FOR AN ACT ENTITLED, An Act to extend the deadline for the construction of a nursing
20 facility for military veterans and their spouses.

21 Was read the first time and referred to the Committee on Appropriations.

22 SB 105 Introduced by: The Committee on Transportation at the request of the Task Force
23 on Teen Driving Safety

24 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding instruction
25 permits and restricted minor's permits to drive a motor vehicle.

26 Was read the first time and referred to the Committee on Transportation.

27 SB 106 Introduced by: The Committee on Transportation at the request of the Task Force
28 on Teen Driving Safety

1 FOR AN ACT ENTITLED, An Act to prohibit certain minors from using wireless
2 communication devices while operating motor vehicles upon the public highways.

3 Was read the first time and referred to the Committee on Transportation.

4 SB 107 Introduced by: The Committee on Transportation at the request of the Task Force
5 on Teen Driving Safety

6 FOR AN ACT ENTITLED, An Act to limit the number of passengers allowed in a motor
7 vehicle operated by a holder of a restricted minor's permit.

8 Was read the first time and referred to the Committee on Transportation.

9 SB 108 Introduced by: Senators Adelstein, Kirkeby, Lucas, Rampelberg, Soholt, Tieszen,
10 and White and Representatives Magstadt, Conzet, Erickson, Hajek, Hunhoff (Bernie), Kopp,
11 and Olson (Betty)

12 FOR AN ACT ENTITLED, An Act to repeal certain tort liability arising out of causes of
13 action based on seduction, abduction, and alienation of affections.

14 Was read the first time and referred to the Committee on Judiciary.

15 SB 109 Introduced by: Senators Adelstein, Kirkeby, Lucas, and Tieszen and
16 Representatives Hunhoff (Bernie), Feinstein, Gibson, Hawley, and Soli

17 FOR AN ACT ENTITLED, An Act to revise the Human Relations Act to allow certain
18 discriminatory practices to be investigated by municipalities and counties.

19 Was read the first time and referred to the Committee on Local Government.

20 SB 110 Introduced by: Senators Monroe and Kirkeby and Representatives Stalzer, Duvall,
21 and Kaiser

22 FOR AN ACT ENTITLED, An Act to provide for the release of certain military records
23 of deceased veterans.

24 Was read the first time and referred to the Committee on Judiciary.

25 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

26 HB 1001: FOR AN ACT ENTITLED, An Act to require mineral developers to give notice
27 to surface owners before entering the land.

1 Was read the first time and referred to the Committee on Agriculture and Natural
2 Resources.

3 HB 1006: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the
4 termination of certain mineral interests.

5 Was read the first time and referred to the Committee on Agriculture and Natural
6 Resources.

7 HB 1021: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child
8 support.

9 Was read the first time and referred to the Committee on Judiciary.

10 HB 1023: FOR AN ACT ENTITLED, An Act to revise certain rules relating to the
11 Department of Human Services Medicaid waiver programs.

12 Was read the first time and referred to the Committee on Health and Human Services.

13 HB 1026: FOR AN ACT ENTITLED, An Act to comply with certain Internal Revenue
14 Code requirements relating to maximum annual benefits paid to members of the South Dakota
15 Retirement System and to provide for the update of references to the Internal Revenue Code.

16 Was read the first time and referred to the Committee on Retirement Laws.

17 HB 1027: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
18 application of the special pay retirement program of the South Dakota Retirement System.

19 Was read the first time and referred to the Committee on Retirement Laws.

20 HB 1031: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding parole
21 date calculation.

22 Was read the first time and referred to the Committee on Judiciary.

23 HB 1053: FOR AN ACT ENTITLED, An Act to revise the lending limit for state chartered
24 banks.

25 Was read the first time and referred to the Committee on State Affairs.

SECOND READING OF CONSENT CALENDAR ITEMS

SB 65: FOR AN ACT ENTITLED, An Act to revise certain exemptions from licensure by the Real Estate Commission.

Was read the second time.

The question being "Shall SB 65 pass?"

And the roll being called:

Yeas 34, Nays 0, Excused 1, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

Excused:

Johnston

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

SB 24: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the Board of Examiners of Psychologists.

Was read the second time.

24jb

Sen. Bradford moved that SB 24 be amended as follows:

On page 6 of the Senate Health and Human Services Committee engrossed bill, delete line 24.

On page 7, delete lines 1 to 24, inclusive.

On page 8, delete lines 1 to 12, inclusive.

Which motion lost.

1 The question being "Shall SB 24 pass as amended?"

2 And the roll being called:

3 Yeas 34, Nays 0, Excused 1, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
6 Hunhoff (Jean); Jensen; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup
7 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt;
8 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

9 Excused:

10 Johnston

11 So the bill having received an affirmative vote of a majority of the members-elect, the
12 President declared the bill passed and the title was agreed to.

13 SB 35: FOR AN ACT ENTITLED, An Act to allow the prosecution to appeal from certain
14 judgments of acquittal.

15 Was read the second time.

16 The question being "Shall SB 35 pass?"

17 And the roll being called:

18 Yeas 34, Nays 0, Excused 1, Absent 0

19 Yeas:

20 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
21 Hunhoff (Jean); Jensen; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup
22 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt;
23 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

24 Excused:

25 Johnston

26 So the bill having received an affirmative vote of a majority of the members-elect, the
27 President declared the bill passed and the title was agreed to.

28 SB 39: FOR AN ACT ENTITLED, An Act to establish a penalty for a juvenile convicted
29 as an adult of a Class A or B felony and allow a sentence of up to life imprisonment after a
30 sentencing hearing.

31 Was read the second time.

1 The question being "Shall SB 39 pass?"

2 And the roll being called:

3 Yeas 34, Nays 0, Excused 1, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
6 Hunhoff (Jean); Jensen; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup
7 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
8 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

9 Excused:

10 Johnston

11 So the bill having received an affirmative vote of a majority of the members-elect, the
12 President declared the bill passed and the title was agreed to.

13 SB 43: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
14 crossing of a railroad and to revise the penalty for certain railroad crossing violations by the
15 driver of a commercial motor vehicle.

16 Was read the second time.

17 The question being "Shall SB 43 pass?"

18 And the roll being called:

19 Yeas 32, Nays 2, Excused 1, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Frerichs; Heineman (Phyllis); Holien; Hunhoff
22 (Jean); Jensen; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson
23 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Soholt; Sutton; Tidemann;
24 Tieszen; Van Gerpen; Vehle; Welke; White

25 Nays:

26 Ewing; Rhoden

27 Excused:

28 Johnston

29 So the bill having received an affirmative vote of a majority of the members-elect, the
30 President declared the bill passed and the title was agreed to.

1 Sen. Heineman moved that the Senate do now adjourn, which motion prevailed and at
2 1:56 p.m. the Senate adjourned.

3
Jeannette Schipper, Secretary